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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,987	07/18/2003	Shanna Marie Cronan		3059

7590 08/19/2004
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EXAMINER

COURSON, TANIA C

ART UNIT PAPER NUMBER

2859

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,987

Applicant(s)

CRONAN, SHANNA MARIE

Examiner

Tania C. Courson

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The use of the trademark “Velcro” has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology (i.e. VELCRO, hook and loop fastener).

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

2. Claims 6 and 13 are objected to because of the following informalities:
 - a) claim 6, in line 2, “Velcro” should read “VELCRO”, and;
 - b) claim 13, in line 2, “Velcro” should read “VELCRO”.

Appropriate correction is required.

3. Claims 15-16 are objected to because of the following informalities: it has no proper dependency since each claim states in line 1, respectively, that it is dependent on “The method of claim 1” and independent claim 1 refers to a device claim. For examination purposes, the examiner has assumed that claim 15 and claim 16, respectively, is dependent on claim 14, the appropriate independent method claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5, 8-10, 12 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sexton, I (US 4,934,024).

Sexton, I discloses in Figure 5, an indicator and associated method comprising:

With respect to claims 1-3 and 5:

- a) an indicator (Fig. 5, grip member 12) for indicating the optimal position and orientation for holding a device (Fig. 5, handle 18), a means for affixing the indicator to the device (Fig. 5);
- b) wherein the indicator is shaped as one or more human hands (Fig. 5 and column 5, line 62 through column 6, line 2);
- c) wherein the human hands are a right human hand and a left human hand (Fig. 5 and column 5, line 62 through column 6, line 2);
- d) wherein the means for affixing the indicator to the device is an adhesive on the indicator (column 5, lines 48-50).

With respect to claims 8-10, 12 and 15-17:

- a) determining an optimal position and orientation for holding a device (Fig. 5, handle 18) and affixing an indicator to the device to indicate the optimal position and orientation (Fig. 5, grip member 12);
- b) wherein the indicator is shaped as one or more human hands (Fig. 5 and column 5, line 62 through column 6, line 2);
- c) wherein the human hands are a right human hand and a left human hand (Fig. 5 and column 5, line 62 through column 6, line 2);
- d) wherein the means for affixing the indicator to the device is an adhesive on the indicator (column 5, lines 48-50).
- e) wherein the optimal position and orientation for holding the device is determined by a manufacturer of the device (column 3, line 66 through column 4, line 3);
- f) wherein the optimal position and orientation for holding the device is determined for a specific user of the device (column 3, line 66 through column 4, line 3);
- g) wherein the optimal position and orientation for holding the device is determined by a medical professional (column 3, line 66 through column 4, line 3).

6. Claims 1, 6, 8 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by McGowan (US 4,027,687).

McGowan discloses in Figure 5, an indicator and associated method comprising:

With respect to claims 1, 6, 8 and 13:

- a) an indicator (Fig. 16, tube 72) for indicating the optimal position and orientation for holding a device (Fig. 16, walker rail 62), a means for affixing the indicator to the device (Fig. 16);
- b) wherein the means for affixing the indicator to the device comprises Velcro on the indicator and corresponding Velcro on the device (Fig. 16, VELCRO, C2);

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 7, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sexton, I in view of Tassey et al. (US 6,237,266 B1) and Sisko et al. (US 5,657,783).

Sexton, I discloses an indicator and associated method, as stated above in paragraph 5.

Sexton, I does not disclose wherein the indicator is made of a material that is visible in the absence of an external light source and wherein the device is a medical walker.

Tassey et al. teach a visual indicator and associated method that consists of wherein the indicator is made of a material that is visible in the absence of an external light source (column 4, lines 45-52). Therefore, it would have been obvious to one having ordinary

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skill in the art at the time the invention was made to further modify the indicator and associated method of Sexton, I, so as to include the indicator made of a material that is visible in the absence of light, as taught by Tassey et al., so as to provide a greater enhancement in visibility during use of the indicator.

Sisko et al. teach a device having an indicator and associated method that consists of wherein the device is a medical walker. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the indicator and associated method of Sexton, I, so as to include wherein the device is a medical walker, as taught by Sisko et al., so as to provide an alternate device for utilizing the indicator.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose an indicator:

Severson (US D486,686 S)

Claunch (US 6,746,249 B1)

Bresnan (US 6,025,773)

Cota (US 6,024,723)

Lai (US 4,836,544)

Foley et al. (US 3,484,106)

McCullough (US 1,664,257)

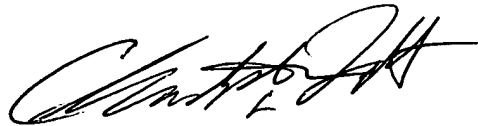
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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239.

The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (703) 872-9306.



DIEGO F.F. GUTIERREZ
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 2859

TCC
August 17, 2004

CHRISTOPHER W. FULTON
PRIMARY EXAMINER